

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition No.7624 of 2006

Kalpana Milind Potnis and ors

...Petitioners.

VS

The State of Maharashtra & Anr.

...Respondents

Mr. Uday Warunjikar for the Petitioner.

Mr.V.P. Malvankar AGP for respondents.

**CORAM: H.L.GOKHALE, Acg C.J. &
V.M.KANADE J.**

DATE: JANUARY 29, 2007.

P.C.:-

Heard Mr. Warunjikar in support of the petition. Mr. Malvankar, AGP appears for the respondents. The land of the petitioners has been acquired. The compensation has been deposited in court way back in 1989. The petitioners' plea is that instead of the compensation, they ought to be given TDR. That is a matter of option to the government or the municipal corporation. A challenge is now sought to be raised to the Notification dated 5th June 1997, which in second clause states that where the land belonging to a citizen is taken over and compensation is not fully paid, it will be open to the government

to grant TDR. The grievance is that a period of 12 years is introduced in the clause for such benefit to be given and that 12 years are to be reckoned prior to 30th September 1993. The possession of the petitioners' land has been taken. In any case the clause clearly states that where full compensation is not paid, then option may be exercised by the government. Mr. Warunjikar states that the said option should be extended to those whose lands were taken possession even prior to 12 years.

We are not impressed by this submission of Mr. Warunjikar. It is very clear that the arrangement is to apply where there is a monetary crunch on the part of the government and the compensation is not paid. Petitioners' payment is lying in court. No need to interfere with. Writ Petition is dismissed.

ACTING CHIEF JUSTICE

V.M.KANADE, J.